

MANATT, PHELPS & PHILLIPS, LLP
ANDREW A. BASSAK (Bar No. CA 162440)
E-mail: ABassak@manatt.com
ANN M. HEIMBERGER (Bar No. CA 197060)
E-mail: AHeimberger@manatt.com
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Telephone: (415) 291-7400
Facsimile: (415) 291-7474

Attorneys for Plaintiff
DEBORAH DI GRAZIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT

SAN JOSE DIVISION

DEBORAH DI GRAZIA, a widow,

Plaintiff,

vs.

SAZERAC COMPANY, INC., a Louisiana
corporation; and DOES 1-20,

Defendants.

No. 5:08-CV-01562 JW

**STIPULATION TO CONTINUE HEARING
ON DEFENDANT'S MOTION TO
DISMISS; DECLARATION IN SUPPORT
THEREOF**

[Proposed] Order filed concurrently

Court: Hon. James Ware

STIPULATION

WHEREAS, Plaintiff Deborah di Grazia ("di Grazia") filed a Complaint against Defendant Sazerac Company, Inc. ("Sazerac") in the Superior Court of the State of California, County of Monterey, on February 20, 2008, alleging Breach of Contract, Breach of Implied Covenant of Good Faith, Unjust Enrichment, Breach of Implied Covenant, and Breach of Contract – Third Party Beneficiary (the "Complaint");

WHEREAS, Sazerac removed the case to this Court on March 21, 2008;

WHEREAS, Sazerac filed a Motion to Dismiss Complaint for Failure to State a Claim ("Motion to Dismiss") on March 28, 2008;

WHEREAS, the hearing on Sazerac's Motion to Dismiss is scheduled for May 5, 2008 at 9:00 a.m., the last day for di Grazia to file her opposition to the Motion to Dismiss is April 14, 2008, and the last day for Sazerac to file its reply in support of its Motion to Dismiss is April 21, 2008;

WHEREAS, di Grazia has requested a continuance of the hearing on the Motion to Dismiss with a corresponding extension of the related briefing deadlines due to counsel scheduling conflicts, and Sazerac has agreed to the requested continuance; and

WHEREAS, the next available hearing date on the Court's calendar is June 9, 2008;

Accordingly, pursuant to Civil Local Rules 6-2, 7-12 and 7-7(a), IT IS HEREBY STIPULATED by and between di Grazia and Sazerac, through their respective counsel of record, as follows:

1. The hearing on Sazerac's Motion to Dismiss shall be continued to June 9, 2008 at 9:00 a.m., Di Grazia shall have until and including May 13, 2008 to file and serve her opposition to the Motion to Dismiss, and Sazerac shall have until and including May 23, 2008 to file and serve its reply in support of its Motion to Dismiss.

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2. Entering into this Stipulation shall not prejudice any of the parties from later requesting an extension of such dates.

IT IS SO STIPULATED.

Dated: April 11, 2008

Manatt, Phelps & Phillips, LLP

By: /s/ Ann M. Heimberger

Ann M. Heimberger
Attorneys for Plaintiff
DEBORAH DI GRAZIA

Dated: April 11, 2008

Cooley Godward Kronish LLP

By: /s/ Samantha M. Everett

Samantha M. Everett
Attorneys for Defendant
SAZERAC COMPANY, INC.

Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures, Ann M. Heimberger hereby attests that concurrence in the filing of this document has been obtained.

DECLARATION

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2 1. I am an attorney duly licensed to practice law in California, and am counsel
3 with the law firm of Manatt, Phelps & Phillips, LLP, attorneys for Deborah di Grazia ("di
4 Grazia"), plaintiff in the above-referenced action. This declaration is submitted in support of the
5 parties' joint Stipulation and Proposed Order to Continue Hearing on Defendant's Motion to
6 Dismiss. I have personal knowledge of the matters stated in this declaration and if called upon to
7 testify as to the truth of the following facts, I could and would competently do so.

8 2. Defendant Sazerac Company, Inc. ("Sazerac") filed a Motion to Dismiss
9 Complaint for Failure to State a Claim ("Motion to Dismiss") on March 28, 2008. The hearing on
10 Sazerac's Motion to Dismiss is scheduled for May 5, 2008 at 9:00 a.m. The last day for di Grazia
11 to file her opposition to the Motion to Dismiss is April 14, 2008. The last day for Sazerac to file
12 its reply in support of its Motion to Dismiss is April 21, 2008.

13 3. We requested of Sazerac's counsel a two week continuance of the hearing
14 on the Motion to Dismiss, with a corresponding extension of the related briefing deadlines, due to
15 counsel scheduling conflicts, and Sazerac's counsel has agreed to the requested continuance.

16 4. The next available hearing date on the Court's calendar is June 9, 2008.

17 5. Accordingly, di Grazia and Sazerac have agreed that the hearing on
18 Sazerac's Motion to Dismiss Complaint for Failure to State a Claim ("Motion to Dismiss") shall
19 be continued to June 9, 2008 at 9:00 a.m.; di Grazia shall have until and including May 13, 2008
20 to file and serve her opposition to the Motion to Dismiss; and Sazerac shall have until and
21 including May 23, 2008 to file and serve its reply in support of its Motion to Dismiss.

22 6. There have been no previous time modifications in this case.

23 7. The time modification proposed by this stipulation will not affect any other
24 events currently on the Court's schedule for this case.

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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct and this declaration is executed this 11th day of April, 2008 in San
3 Francisco, California.

4 Dated: April 11, 2008

MANATT, PHELPS & PHILLIPS, LLP

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6 By: /s/ Ann M. Heimberger
7 Ann M. Heimberger
8 *Attorneys for Plaintiff*
9 DEBORAH DI GRAZIA

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No. 5:08-CV-01562 JW

**[PROPOSED] ORDER TO CONTINUE
HEARING ON DEFENDANT'S MOTION
TO DISMISS**

Stipulation filed concurrently

Court: Hon. James Ware

PROPOSED ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that

1. The hearing on Defendant Sazerac Company, Inc.'s Motion to Dismiss Complaint for Failure to State a Claim ("Motion to Dismiss") shall be continued to June 9, 2008 at 9:00 a.m. Plaintiff Deborah di Grazia shall have until and including May 13, 2008 to file and serve her opposition to the Motion to Dismiss. Defendant Sazerac Company, Inc. shall have until and including May 23, 2008 to file and serve its reply in support of its Motion to Dismiss.

2. Entering into this Stipulation shall not prejudice any of the parties from later requesting an extension of such dates.

Dated: April __, 2008

The Honorable James Ware
United States District Judge

90011048.1

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STIPULATION

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Manatt, Phelps & Phillips, LLP

By: /s/ Ann M. Heimberger

Ann M. Heimberger
Attorneys for Plaintiff
DEBORAH DI GRAZIA

Dated: April 11, 2008

Cooley Godward Kronish LLP

By: /s/ Samantha M. Everett

Samantha M. Everett
Attorneys for Defendant
SAZERAC COMPANY, INC.

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22 6. There have been no previous time modifications in this case.

23 7. The time modification proposed by this stipulation will not affect any other
24 events currently on the Court's schedule for this case.

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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct and this declaration is executed this 11th day of April, 2008 in San
3 Francisco, California.

4 Dated: April 11, 2008

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6 By: /s/ Ann M. Heimberger
7 Ann M. Heimberger
8 *Attorneys for Plaintiff*
9 DEBORAH DI GRAZIA

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PROPOSED ORDER

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The Honorable James Ware
United States District Judge

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